

1 HONORABLE RICHARD A. JONES
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12 UNITED STATES DISTRICT COURT
13 WESTERN DISTRICT OF WASHINGTON
14 AT SEATTLE

15 JAMES TYLER HANNON,

16 Case No. 2:20-cv-00136- RAJ

17 Plaintiff,

18 v.

19 ORDER

20 KORY VERSTEEG, *et al.*,

21 Defendants.

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24 I. INTRODUCTION

25 This matter comes before the Court on Defendant Kory Versteeg's Motion to Set
26 Aside Default Judgment and to Dismiss for Lack of Personal Jurisdiction and for
27 Attorney Fees. Dkt. # 27. Plaintiff James Tyler Hannon opposes the motion but notes
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1 that he would stipulate to transfer the case to the District of Alaska pursuant to 28 U.S.C.
2 § 1406, should the Court fail to find sufficient contacts to establish personal jurisdiction.
3 Dkt. # 29. For the reasons below, the Court **GRANTS in part** the motion by setting
4 aside default judgment. The Court **DENIES** the motion to dismiss and, instead, transfers
5 the case to the District of Alaska. Finally, the Court **DENIES** attorney's fees.

6 II. BACKGROUND

7 On January 28, 2020, Plaintiff filed a complaint in this Court against Kory
8 Versteeg and F/V Guardian, a fishing vessel, ("Defendants") alleging that Plaintiff, as a
9 deckhand aboard the F/V Guardian for the 2019 Bristol Bay and Southeast Alaska
10 summer salmon season, was not given a written employment contract in violation of 46
11 U.S.C. §10601, was paid less than the crewshare verbally agreed upon, and was not given
12 an accounting of the catch as required under 46 U.S.C. §10602. Dkt. # 1 ¶¶ 6-7. Mr.
13 Versteeg did not file a response. On August 12, 2020, Mr. Versteeg was declared in
14 default for failure to plead, answer, or otherwise defend within 21 days of service of the
15 Summons and Complaint. Dkt. # 15. After initially denying a motion for default
16 judgment for failure to provide evidence supporting a claim for a particular sum, Dkt.
17 # 21, the Court later granted default judgment in the amount of \$27,425.40 in wages,
18 wages penalties, and attorney's fees, Dkt. # 24.

19 Nearly two years later after the complaint was filed, on December 17, 2021, Mr.
20 Versteeg filed the pending motion to set aside the default judgment entered against him.
21 Dkt. # 27. He claims that the Court lacks personal jurisdiction over him and that he is
22 entitled to reimbursement "for the expense of asserting a jurisdictional defense in
23 Washington." Dkt. # 27 at 2. The Court will address each issue in turn.

24 III. DISCUSSION

25 A. Default Judgment

26 It is undisputed that Plaintiff is a resident of Oregon and Mr. Versteeg is a resident
27 of Alaska. Dkt. # 1 ¶ 2; Dkt. # 27 at 2. In his complaint, Plaintiff alleged that
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1 Defendants do business in King County, Washington, and that the F/V Guardian is a
2 fishing vessel whose home port is in the Western District of Washington “or will be
3 found in the Western District of Washington during the pending of this action.” Dkt. # 1
4 ¶¶ 2. 4. Mr. Versteeg failed to respond to this complaint to dispute any of the allegations
5 or move to transfer the case. Consequently, when reviewing the motion for default
6 judgment, the Court accepted all well-pleaded allegations of the complaint as fact, except
7 those related to the amount of damages. *See* Dkt. # 21 (citing *TeleVideo Sys., Inc. v.*
8 *Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987)).

9 Now, Mr. Versteeg asserts that the Court lacks personal jurisdiction over him
10 because the vessel operates exclusively in Alaska waters and has done so since Mr.
11 Versteeg purchased the vessel. Dkt. # 27 at 2. Mr. Versteeg claims that he has limited
12 personal or professional connections in Washington and no contacts arising from
13 Plaintiff’s wage claim against him. *Id.* In his response, Plaintiff alleges that Mr.
14 Versteeg has the following contacts in Washington: (1) Mr. Versteeg is represented by an
15 insurance adjuster who is based in Seattle; (2) Mr. Versteeg “believes” he has a tax
16 accountant in Washington; (3) Mr. Versteeg purchased the F/V Guardian in Washington;
17 and (4) his “ex-girlfriend” and mother of his children lives in the state. Dkt. # 29 at 2-3.

18 If a court lacks personal jurisdiction over the parties, a default judgment is void.
19 *See Thomas P. Gonzalez Corp. v. Consejo Nacional De Produccion De Costa Rica*, 614
20 F.2d 1247, 1255 (9th Cir. 1980). A court may exercise personal jurisdiction through
21 “general or all-purpose jurisdiction, and specific or conduct-linked jurisdiction.” *Daimler*
22 *AG v. Bauman*, 571 U.S. 117, 122 (2014). Because it is undisputed that Mr. Versteeg is
23 domiciled in Alaska and not in Washington, there is no general personal jurisdiction over
24 Mr. Versteeg. *See Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 924
25 (2011) (holding that “[f]or an individual, the paradigm forum for the exercise of general
26 jurisdiction is the individual’s domicile”). Plaintiff does not proffer any support for his
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1 statement that Defendants “do business in King County, Washington,” and Mr. Versteeg
 2 has confirmed that the F/V Guardian only operates in Alaska waters.

3 With respect to specific personal jurisdiction, the Court finds that Defendants’
 4 contacts are similarly insufficient. As relevant here, Washington’s long-arm statute,
 5 RCW 4.28.185, extends personal jurisdiction over any person, whether a resident or non-
 6 resident, “to the jurisdiction of the courts of this state as to any cause of action arising
 7 from . . . [t]he transaction of any business within this state.” RCW 4.28.185(1). “The
 8 mere execution of a contract with a resident of the forum state does not alone
 9 automatically fulfill the ‘purposeful act’” required to establish specific personal
 10 jurisdiction. *MBM Fisheries, Inc. v. Bollinger Mach. Shop & Shipyard, Inc.*, 804 P.2d
 11 627, 633 (Wash. App. 1991).

12 Here, Plaintiff’s wage claim focuses solely on his work in Alaska waters on a ship
 13 that operates exclusively in Alaska, owned by Mr. Versteeg, an Alaska-based fishing
 14 captain whose business revenues are held in Alaska banks and who does not bring the
 15 vessel to Washington for service. Dkt. # 27 at 6-7. The wage claim—the only cause of
 16 action—does not “aris[e] from” Mr. Versteeg’s alleged business transaction or “contacts”
 17 in Washington, which include his ex-girlfriend, insurance adjuster, and tax accountant.
 18 Such contacts are unrelated to the cause of action and do not constitute sufficient
 19 minimum contacts for general personal jurisdiction nor specific personal jurisdiction.

20 For these reasons, the Court finds that it lacks personal jurisdiction over
 21 Defendants and, therefore, sets aside the default judgment pursuant to Federal Rule of
 22 Civil Procedure 60(b)(4). *See* 614 F.2d at 1255. Both parties recognize, and the Court
 23 agrees, that the action may be properly filed in the District of Alaska, wherein the wage
 24 dispute arose. *See* 28 U.S.C. § 1406. The Court thus transfers the action to the District
 25 of Alaska.

26 **B. Attorney’s Fees**

1 Mr. Versteeg contends that he is entitled to attorney's fees pursuant to RCW
2 4.28.185, which provides the following:

3 In the event the defendant is personally served outside the state on causes of action
4 enumerated in this section, and prevails in the action, there may be taxed and
5 allowed to the defendant as part of the costs of defending the action a reasonable
6 amount to be fixed by the court as attorneys' fees.

7 RCW 4.28.185(5).

8 The Court finds that attorney's fees are not appropriate here. First, the Court finds
9 that the instant action seeking wages is "neither frivolous nor brought to harass." *O.B.*
10 *Williams Co. v. S.A. Bendheim W., Inc.*, No. C08-1155JLR, 2010 WL 3430404, at *3
11 (W.D. Wash. Aug. 30, 2010). Second, the Court finds that Defendants would have
12 "incurred fees to defend against the merits of the lawsuit regardless of where the lawsuit
13 was filed." *Id.* As Mr. Versteeg noted, he intentionally did not appear in the action filed
14 before this Court because "he expected a suit would be filed in his own state of Alaska."
15 *Id.* Despite having received the summons and complaint, he failed to submit a
16 declaration clarifying his limited contacts in Washington or correcting Plaintiff's
17 misstatement that Mr. Versteeg's fishing vessel did not operate or have its home port in
18 the Western District of Washington. Because Mr. Versteeg did not have to pay counsel
19 to appear in Washington or incur any additional costs to defend the merits of the case in
20 Washington and because he would not have incurred costs for the pending motion were it
21 not for his failure to respond in a timely fashion, the Court **DENIES** the motion for
22 attorney's fees.

23 IV. CONCLUSION

24 For the foregoing reasons, the Court **ORDERS** as follows:

25 (1) Defendants' request to set aside the default judgment is **GRANTED**;

- (2) The case will be **TRANSFERRED** to the District of Alaska; and
- (3) Defendants' request for attorney's fees is **DENIED**. Dkt. # 27.

Dated this 8th day of June, 2022.

Richard D. Jones

The Honorable Richard A. Jones
United States District Judge

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